

CHAPTER 3 BUYING, SELLING, AND FINANCING MOTOR VEHICLES

Secs.	
300	Dealers and Sellers
301	Licensing Requirements for Dealers, Salespersons, Automobile Repossessors, and Sales Finance Companies
302	License Application
303	Qualifications for Licenses
304	Maintenance of Qualifications
305	Issuance of Licenses
306	Change of Employer or Termination of Employment of a Salesperson
307	Bonds or Other Security
308	License Fees
309	Appointment of the Mayor as Attorney-in-Fact
310	Grounds for Denial, Suspension, or Revocation of Licenses
311	Procedure for Denial, Suspension, or Revocation of a License
312	Appeals
313	Inspection of Records
314 - 319	[Reserved]
320	Information Required in Contracts
321	Format of Invoices and Contracts
322	Delivery of Contract to Buyer
323	Advertising
324	Down Payments
325	Insurance: Types and Amounts
326	Change in Source of Insurance or Change in Premium
327	Refund of Insurance Premiums
328	Finance Charges
329	Schedule of Payments
330	Irregular or Unequal Installments
331	Transfer of Equity
332	Signing of Documents
333	Handling and Delivery Charges
334	Warranties and Guarantees
335	Statements of Account and Receipts
336	Unauthorized Charges and Contract Provisions
337	Prepayment and Refunds
338	Refinancing Retail Installment Contracts
339	Sale or Transfer of Vehicle or Instrument of Security
340	Repossession
341	Holder's Duties on Repossession
342	Buyer's Right to Redeem the Vehicle
343	Repossession Rights of Holder and Buyer
344	Sale of Repossessed Motor Vehicle
345	Proceeds of Sale of Repossessed Motor Vehicle
346	Consumer Remedies
347 - 349	[Reserved]
350	Sample Contract Forms
351	Identification of Salespersons
352	Salespersons' Actions on Behalf of Dealers
353	Penalties
399	Definitions

300 DEALERS AND SELLERS

300.1 Unless otherwise required by the context and except as provided otherwise in this section, the words "dealer" and "seller" mean any person other than a salesman who does the following for compensation:

- (a) Buys, sells, exchanges, or offers or attempts to buy, sell, or exchange an interest in a motor vehicle, whether on consignment or otherwise; or
- (b) Negotiates or attempts to negotiate a purchase, sale or exchange of an interest in a motor vehicle; or
- (c) Is engaged, wholly or in part, in the business of selling motor vehicles, whether or not the motor vehicles are owned by that person.

300.2 The words "dealer" and "seller" shall not include the following:

- (a) Public officers, their deputies, assistants, or employees, while performing their official duties;
- (b) Persons disposing of motor vehicles acquired for their own use and actually so used, when the same shall have been acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter;
- (c) Persons dealing solely in the sale and distribution of fire-fighting equipment, construction equipment, ambulances, or funeral vehicles, including motor vehicles adapted for those purposes;
- (d) Manufacturers or representatives of manufacturers of motor vehicles on behalf of those manufacturers exclusively to licensed motor vehicle dealers; or
- (e) Persons engaged in the business of buying motor vehicles from licensed dealers for sale or disposition outside of the District.

300.3 The following persons may engage in the activities set forth in paragraphs (a) and (b) of §300.1 without procuring a dealer's or a salesman's license:

- (a) Any person appointed by any court or acting under judgment or order of any court;
- (b) An auctioneer licensed by the District;
- (c) A person selling a motor vehicle to enforce a garage keeper's lien; and
- (d) The employees of persons listed in §300.3(a)-(c) when engaged in the specific performance of the duties of that employment.

AUTHORITY: Unless otherwise noted, the authority for this chapter is An Act To provide for the regulation of finance charges for retail installment sales of motor vehicles in the District of Columbia, and for other purposes, approved April 22, 1960 (Public Law 86-431; 74 Stat. 69); D.C. Code §40-1101 *et seq.* (1990 Repl. Vol.).

SOURCE: Section 101(a) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §1.1(a).

301 LICENSING REQUIREMENTS FOR DEALERS, SALESPERSONS, AUTOMOBILE REPOSSESSORS, AND SALES FINANCE COMPANIES

301.1 No person shall engage in business as a dealer, a salesperson, an automobile reposessor, or a sales finance company unless that person holds a proper license issued to him or her pursuant to this chapter.

301.2 For a period no longer than one (1) month after application for a license, an applicant for a salesperson's or automobile reposessor's license may engage in the occupation for which a license is being sought; Provided, that all of the following conditions are met:

- (a) The applicant has not previously held a license as a dealer, salesperson, automobile reposessor, or sales finance company which has been suspended or revoked;
- (b) The applicant has fully complied with all relevant filing requirements of §302; and
- (c) The applicant, if applying for a salesperson's license, has filed a certification by the dealer by whom he or she is employed that the applicant meets all of the qualifications for a salesperson required by §302.

301.3 No licensed dealer, salesperson, automobile reposessor, or sales finance company shall hold himself, herself, or itself out or engage in business as a licensed dealer, salesperson, automobile reposessor, or sales finance company under any name other than the name appearing on his, her, or its license.

301.4 Any licensed sales finance company which engages in any activity of a dealer shall be deemed to be a dealer and subject to all of the provisions of this chapter relating to dealers, but shall not be required to obtain a separate license as a dealer.

SOURCE: Section 201 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCR §2.1; as amended by §4(b)(2) and (3) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 669 (February 12, 1982).

302 LICENSE APPLICATION

302.1 Application for a license to act as a dealer, as a salesperson, as an automobile reposessor, or as a sales finance company shall be filed with the Department of Consumer and Regulatory Affairs (also referred to as the "Department") on a form prescribed by the Director of the Department (The Director or the Director's designee are also referred to in this chapter as the "Director").

- 302.2 Each person applying for a license shall submit to the Director under oath any information that the Director may require to determine whether the applicant has the qualifications required for a license.
- 302.3 Each application for a salesperson's or an automobile reposessor's license shall be accompanied by three (3) copies of a full-faced photograph of the applicant. Each photograph shall be one inch by one and one-half inches (1 in. x 1½ in.) in size and shall have been taken not more than three (3) months prior to the date of filing the application.
- 302.4 Each application for a salesperson's license shall include a certification by each licensed dealer for whom the applicant proposes to act as a salesperson that the applicant will, if licensed, be employed by that dealer.

SOURCE: Section 202(a), (c)(1), and (c-1) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §2.2(a); as amended by §4(c)(1) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 670 (February 12, 1982).

303 QUALIFICATIONS FOR LICENSES

- 303.1 To be qualified for a dealer's license, an applicant must demonstrate the following to the satisfaction of the Director:
- (a) That the applicant is trustworthy;
 - (b) That the applicant intends to act as a *bona fide* dealer;
 - (c) That the applicant has, or has employed a managing employee who has, substantial experience or training or education in the business of selling motor vehicles; and
 - (d) That the applicant will, if licensed, carry on the business of a dealer in a place of business for which a certificate of occupancy to conduct that business has been issued.
- 303.2 To be qualified for a salesperson's license, an applicant must be found by the Director to be trustworthy and to have the intention to act as a *bona fide* salesperson.
- 303.3 To be qualified for a sales finance company license, an applicant must be found by the Director to be trustworthy and to have the intention to act as a *bona fide* sales finance company.
- 303.4 To be qualified for an automobile reposessor's license, an applicant must be found by the Director to be trustworthy and to have the intention to act as a *bona fide* automobile reposessor.
- 303.5 If any employer, partner, or employee of an applicant for an automobile reposessor's license or any person exercising control, directly or indirectly, over the applicant is himself or herself deficient in the qualification of trustworthiness

so that he or she would not be entitled to a license in his or her own name, that deficiency may be deemed to be a deficiency of the applicant.

SOURCE: Section 202(b), and (c)(1), (c-1), (e), and (f) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§2.2(b), 2.2(c)(1), 2.2(e), and 2.2(f); as amended by §4(c)(3) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 670 (February 12, 1982).

304 MAINTENANCE OF QUALIFICATIONS

304.1 All qualifications set forth in this chapter as prerequisite to the issuance of any license shall be maintained during the entire license period.

304.2 Failure to maintain any qualification set forth in this chapter shall be cause for suspension or revocation of the license.

SOURCE: Section 205 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §2.5.

305 ISSUANCE OF LICENSES

305.1 If the Director or designee finds that an applicant for a license has the required qualifications, he or she shall issue the license.

305.2 When the Director issues a salesperson's license, the Director shall register the licensee as a salesman for the licensed dealer or dealers who certified the application, and issue to the licensee an identification card on which shall be set forth the salesman's license number and the name and business address of each licensed dealer employing that salesperson. One of the photographs required by §302.3 shall be attached to the identification card.

305.3 When the Director issues a automobile reposessor's license, the Director shall also issue to the licensee an identification card to which one of the photographs required by §302.3 shall be attached.

SOURCE: Sections 202(c-1), (c)(2) and (d) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§2.2(c)(2) and 2.2(d); as amended by §4(c)(2) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 670 (February 12, 1982).

306 CHANGE OF EMPLOYER OR TERMINATION OF EMPLOYMENT OF A SALESPERSON

306.1 When a licensed salesperson terminates his or her employment with one dealer and becomes employed by another or when a licensed salesperson takes employment with a new dealer for whom he or she has not previously been registered, that salesperson shall, within five (5) calendar days from commencement of the new employment, apply to the Director for a transfer of his or her license.

- 306.2 The Director shall, if the requirements of §303.3 have been complied with, transfer the salesperson's license. The fee for transfer of a salesperson's license shall be three dollars (\$3).
- 306.3 A licensed salesperson shall, within five (5) calendar days after termination of employment as a salesperson, surrender to the Director the license issued to him or her.

SOURCE: Section 202(c)(3) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCR §2.2(c)(3).

307 BONDS OR OTHER SECURITY

- 307.1 Each applicant for license as a dealer or automobile reposessor and each applicant, other than a bank or trust company, for a license as a sales finance company, shall upon notification by the Director of the approval of an application, file in the office of the Director a bond in such form as the Director shall approve in the penal sum of five thousand dollars (\$5,000) running to the District of Columbia, with corporate surety authorized by the Secretary of the Treasury pursuant to Title 6, U.S. Code (1958 ed.), and by the Superintendent of Insurance of the District, to do business in the District.
- 307.2 Each bond shall be conditioned as required by and shall be subject to the provisions of §3 of Public Law 86-431; 74 *Stat.* 71 (4-22-60).
- 307.3 In lieu of a corporate surety bond required by §307.1, an applicant for a license as a dealer or automobile reposessor or for a license as a sales finance company may deposit with the D.C. Treasurer other security for the protection of members of the public against financial loss by reason of the failure of the licensee, or of any officer, agent, employee, or other person acting on behalf of the licensee, to observe any statute or regulation in force in the District applicable to the licensee's conduct of his, her, or its business licensed pursuant to this chapter.
- 307.4 The security which may be accepted by the D.C. Treasurer under §307.3 shall be one of the following:
- (a) Cash in the amount of five thousand dollars (\$5,000);
 - (b) A certified check or cashier's check in the amount of five thousand dollars (\$5,000) made payable to the order of the D.C. Treasurer; or
 - (c) Marketable bond(s) or note(s) having in the aggregate a maturity value of at least six thousand dollars (\$6,000) issued by the United States government or by any agency or instrumentality of the U.S. Government, together with an irrevocable power of attorney and agreement in form provided by the D.C. Treasurer authorizing the D.C. Treasurer to collect or sell, assign and transfer any such bond or note: Provided, that no such bond or note shall be collected or sold until such time as it may be necessary to make payment to any person entitled to recover damages from the security which the bond represents.

- 307.5 Cash, certified checks, and cashier's checks deposited for the purposes of this section and the proceeds of the collection or sale of any bond or note made pursuant to this section shall be deposited to the credit of a District of Columbia trust fund account and shall be available for the payment of any judgment rendered against the licensee in favor of any person who has sustained damage by reason of the violation by the licensee or by the licensee's officer, agent, employee, or other person acting on the licensee's behalf, of any statute or regulation in force in the District applicable to the licensee's conduct of the business licensed pursuant to this chapter. No payment from the security deposited pursuant to this subsection on account of any such judgment shall be made until the judgment has become final and the period for filing an appeal has expired or the judgment debtor has waived in writing the right to take an appeal.
- 307.6 Whenever the security deposited pursuant this section is other than bonds or notes and is reduced below five thousand dollars (\$5,000), or whenever pursuant to §307.4(c) the security is in the form of marketable bonds or notes, and, by reason of the payment of or on account of any final judgment, is reduced to an amount less than six thousand dollars (\$6,000), the licensee shall, within five (5) calendar days after having been notified in writing by the Director do to so, make an additional deposit to bring the amount on deposit with the D. C. Treasurer for the purposes of this section up to five thousand dollars (\$5,000) or six thousand dollars (\$6,000), as the case may be.
- 307.7 Payment made from security deposited pursuant to this section for or on account of a judgment shall include interest and costs as specified in the judgment or as may be required by statute.
- 307.8 Any security deposited pursuant to this section shall be retained by the D. C. Treasurer for at least three (3) years after the expiration of the license in connection with which the security was deposited.
- 307.9 In addition to the requirements of §307.8, if the D. C. Treasurer is notified in writing that a suit has been filed against any licensee as a result of which a judgment may be payable out of security held under §307.8, the security shall be retained by the D.C. Treasurer until such time as the suit has been reduced to judgment and the period for filing an appeal from that judgment has expired or the judgment debtor has waived in writing the right to take an appeal or until the suit has been otherwise disposed of.

SOURCE: Section 204 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §2.4; as amended by §4(e) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 671 (February 12, 1982).

308 LICENSE FEES

- 308.1 License fees shall be set by the Mayor.

SOURCE: Section 203 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §2.3; as amended by §4(d) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 671 (February 12, 1982).

309 APPOINTMENT OF THE MAYOR AS ATTORNEY-IN-FACT

- 309.1 Subject to the provisions of this section, application for any license under this chapter shall be deemed equivalent to appointment by the applicant of the Mayor as the applicant's true and lawful attorney upon whom may be served any judicial or other process or legal notice directed to the applicant in any action or proceeding against the applicant growing out of the applicant's operation under the license applied for, and to a signification of the applicant's agreement that any such process or notice which is so served shall be of the same legal force and validity as if served upon the applicant personally in the District.
- 309.2 No process or notice may be served under this section upon any individual residing in the District, or upon any domestic corporation organized under the D.C. Business Corporation Act [P.L. 83-389, 68 Stat. 177 (12-5-54)] or upon any foreign corporation having a registered agent in the District under the provisions of that Act.
- 309.3 The provisions of §309.1 shall not be operative unless and until at least one *bona fide* attempt has been made to serve the process or notice in a manner otherwise provided by law.

SOURCE: Section 206 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCR §2.6.

310 GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF LICENSES

- 310.1 The license of each dealer, salesperson, automobile reposessor, and sales finance company shall be subject to denial, suspension, or revocation for any cause set forth in any other section of this chapter which is applicable to any such license or for any cause set forth in paragraph 46 of §7 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, approved July 1, 1902, 32 Stat. 628, as amended, (D.C. Code §47-2844 (1981)), including without limitation, any of the following causes:
- (a) Material misstatement in application for license;
 - (b) Willful failure or refusal to comply with any provision of statute or regulation relating to the sale, repossession, or financing of motor vehicles;
 - (c) Defrauding any purchaser or prospective purchaser;
 - (d) Willful misrepresentation or concealment through any subterfuge or device of any matter or the nature of any matter required by this chapter to be stated or furnished to the purchaser;
 - (e) Willful employment of any fraudulent or misleading device, method, or practice in connection with the sale, repossession, or financing of the sale of a motor vehicle;

- (f) Willful use of advertising with regard to the sale, repossession, or financing of motor vehicles which is misleading or deceptive by reason of any false statement contained in that advertising, or which by reason of incompleteness may mislead or deceive; or
- (g) Willful or fraudulent circumvention of any provision of statute or regulation relating to the sale, repossession, or financing of motor vehicles.

310.2 In addition to the causes set forth in §310.1, each dealer's license shall be subject to denial, suspension, or revocation for any of the following reasons:

- (a) Employing, engaging, appointing, allowing, or permitting any person to act as a salesperson or automobile reposessor for or on behalf of a dealer, with a reasonable opportunity to know that such person is not duly licensed as a salesperson or automobile reposessor for that dealer, or that the salesperson's or automobile reposessor's license of that person has been suspended or revoked;
- (b) Continuing a relationship in the business of selling motor vehicles with any person, with a reasonable opportunity to know that within the preceding three (3) years, he or she has finally been determined to have committed any act or omitted any duty which is cause for denying that person a license as a dealer, or which is cause for suspending or revoking any dealer's license issued to that person in his or her own name.

310.3 In addition to the causes set forth in §310.1, a salesperson's or automobile reposessor's license shall be subject to denial, suspension, or revocation for acting as a salesperson or automobile reposessor for or on behalf of any person with a reasonable opportunity to know that such person is not duly licensed as a dealer or that his or her dealer's license is suspended or revoked.

SOURCE: Section 207 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §2.7; as amended by §4(f) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 672 (February 12, 1982).

311 PROCEDURE FOR DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE

311.1 Whenever the Director (or the Director's designee) finds that an applicant for a license under this chapter is deficient in one (1) or more of the qualifications for the license applied for, or whenever the Director has reasonable grounds to believe that there has been a violation of any statute or regulation applicable to the conduct of a dealer, salesperson, automobile reposessor, or sales finance company for which the license of that dealer, salesperson, automobile reposessor, or sales finance company is subject to suspension or revocation, the Director shall give notice to the applicant or to the licensee, as the case may be, in accordance with the provisions of this section.

- 311.2 The notice required by §311.1 shall be in writing and shall be signed by the Director.
- 311.3 In the case of a proposed denial of an application for license, the notice shall state in what respects an applicant is deficient and the ultimate facts upon which the Director relies.
- 311.4 In the case of a proposal to suspend or revoke a license, the notice shall indicate the provision(s) of statute or regulations allegedly violated, and the ultimate facts upon which the Director relies.
- 311.5 The notice shall state the action the Director proposes to take or to recommend.
- 311.6 The notice shall advise that the action proposed or recommended will be taken at the expiration of ten (10) calendar days after service of the notice unless an appeal is taken to the Board of Appeals and Review.
- 311.7 The notice shall be served upon the applicant or the licensee, as the case may be.
- 311.8 A copy of the notice shall be delivered to the Administrator, Business Regulation Administration.
- 311.9 The notice shall be deemed to be properly served upon the person affected by the notice when it or a copy of it is:
 - (a) Personally served on that person; or
 - (b) Left at the address stated on the license, or on the application in the case of an applicant, with a person over sixteen (16) years of age then employed or resident at that address; or
 - (c) Mailed by certified mail, postage prepaid addressed to the person at the address stated on the license issued to that person (or in the case of an applicant on the application filed by that person) and not returned by the post office authorities. If any notice mailed as authorized in this paragraph is returned by the post office authorities by reason of refusal of the addressee to accept delivery of the notice, it shall be deemed to have been served on the addressee by mail.

SOURCE: Section 208 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §2.8; as amended by §4(g) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 674 (February 12, 1982).

312 APPEALS

- 312.1 Any person upon whom a notice has been served pursuant to §311 may file with the Board of Appeals and Review a written notice of appeal.

- 312.2 The notice of appeal shall be filed within ten (10) calendar days from the date the notice is served personally on the person named in the notice, or within fourteen (14) calendar days from the date the notice is served other than personally.
- 312.3 The records of any department or agency of the District government may, if otherwise admissible, be admitted in evidence without formal proof in the hearing of any appeal.

SOURCE: Section 209 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCCR §2.9.

313 INSPECTION OF RECORDS

- 313.1 The Director may, prior to approving an application for license under this chapter and from time to time during the license year, inspect any records of, and obtain information from, any applicant or licensee that the Director may consider necessary or advisable, to determine or verify any of the following:
- (a) The identity of each officer, director, partner, member, and managing employee of the applicant or dealer;
 - (b) The identity of any person exercising any degree of control, either directly or indirectly, over the business activities of the applicant or licensee, and the extent of such control; and
 - (c) The identity of any person who may be associated with the applicant or licensee in connection with the business of selling motor vehicles or of purchasing instruments of security, regardless of whether such person may be an officer, director, partner, member, or employee of such applicant or licensee.
- 313.2 In connection with the consideration of an application for a license under this chapter, and from time to time during the license year if the application is approved, the Director shall be authorized at any time during regular business hours to inspect the records of an applicant or any licensee and to obtain from the applicant or the licensee any information that the Director may deem necessary to determine whether an applicant qualifies for license, or whether an applicant or licensee has violated any provision of law or of this chapter relating to the qualifications to obtain or to retain a license.
- 313.3 Each applicant or licensee shall make available to the Director those records and furnish such information that the Director may request in connection with making the inspections authorized by this section, and shall, whenever requested so to do by the Director furnish or permit the Director to make one or more copies of the records as the Director may specify.
- 313.4 The failure or refusal of an applicant for a license or a licensee to make available to the Director the records or information authorized to be requested or to permit the Director to make a copy of the records or information, shall be cause for denial, suspension, or revocation of a license for the applicant or of the licensee.

SOURCE: Section 210 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioner's Order 60-2219, effective October 20, 1960, 5AA DCRR §2.10.

314 - 319 [RESERVED]

320 INFORMATION REQUIRED IN CONTRACTS

320.1 In the case of a retail installment transaction, all information itemized in the following captions shall be furnished in writing to the purchaser, and shall be set forth on the first page in the body of the retail installment contract:

- (a) DESCRIPTION OF THE MOTOR VEHICLE SOLD;
- (b) CASH SALE PRICE OF VEHICLE AND EQUIPMENT;
- (c) GOVERNMENTAL CHARGES;
- (d) CASH DOWN PAYMENT (Including any Cash Deposit);
- (e) AMOUNT CREDITED FOR ANY TRADE-IN;
- (f) TOTAL CASH PRICE BALANCE;
- (g) COST OF INSURANCE AND SUMMARY OF INSURANCE COVERAGE;
- (h) PRINCIPAL BALANCE;
- (i) FINANCE CHARGE;
- (j) TIME PRICE BALANCE; and
- (k) TERMS OF PAYMENT OF TIME PRICE BALANCE.

320.2 In the case of a cash sale all information itemized in the following captions shall be furnished in writing to the purchaser by the dealer on an invoice:

- (a) DESCRIPTION OF THE MOTOR VEHICLE SOLD;
- (b) CASH SALE PRICE OF VEHICLE AND EQUIPMENT;
- (c) GOVERNMENTAL CHARGES;
- (d) CASH DOWN PAYMENT (Including any Cash Deposit);
- (e) AMOUNT CREDITED FOR ANY TRADE-IN;

- (f) TOTAL CASH PRICE BALANCE; and
- (g) COST OF INSURANCE AND SUMMARY OF INSURANCE COVERAGE.

- 320.3 The original and each copy of the completed invoice or of the retail installment contract shall bear the certification of the dealer that the information contained in the document and required by this chapter to be itemized is true.
- 320.4 A legible copy of each invoice and each contract shall be retained in the District by the dealer for not less than three (3) years, in such manner as to make all copies readily accessible for review by the Director or the Director's representative.
- 320.5 The last names and license numbers of each salesperson who participated in negotiating the sale shall also be inserted on the invoice or contract, and those persons shall be identified on the document as the salesperson(s).
- 320.6 All information required by this chapter to be inserted in blank spaces (other than signatures) shall be filled in by typewriter or by writing the information legibly in print style.

SOURCE: Sections 301(a) and (b) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960; as amended by Commissioners' Order 63-1601, 10 DCR 18 (July 22, 1963), 5AA DCRR §§3.1(a) and 3.1(b).

321 FORMAT OF INVOICES AND CONTRACTS

- 321.1 Spaces shall be provided on the first page of the retail installment contract for the signatures of the purchaser and the seller.
- 321.2 Except as otherwise provided in this chapter, all printed portions of the invoice and the retail installment contract shall be at least eight point (8 pt.) type.
- 321.3 There shall be printed or typed on the first page of each retail installment contract, in **BOLD FACE TYPE** no smaller than fourteen point (14 pt.), immediately above the line reserved for the signature of the purchaser, the following notice:

NOTICE TO PURCHASER: IT IS AGAINST THE LAW FOR THE SELLER TO PERMIT OR REQUEST YOU TO SIGN THIS DOCUMENT BEFORE ALL BLANKS ABOVE HAVE BEEN FILLED IN BY THE SELLER AND HE HAS SIGNED THIS PAPER CERTIFYING THAT THE ABOVE INFORMATION IS CORRECT.

- 321.4 There shall be printed or typed on the first page of each retail installment contract in **BOLD FACE TYPE** no smaller than ten point (10 pt.) type, the following:
- (a) Each of the captions designated and required by §320;

- (b) A specific statement immediately under **"SUMMARY OF INSURANCE COVERAGE"** [See: §320.1(g) and §320.2(g)] that the insurance to be purchased by the seller, if any, does not include liability insurance coverage for personal injury and property damage caused to others, unless otherwise stated; and
- (c) A statement immediately after the statement required by §321.3(b) that insurance against physical damage to the motor vehicle protects the interests of the seller only, if that is the case.

321.5 There shall be printed or typed on each invoice, in bold face type no smaller than ten (10) point, immediately under **"SUMMARY OF INSURANCE COVERAGE,"** [See: §320.1(g) and §320.2(g)] a specific statement that the insurance to be purchased by the seller, if any, does not include liability insurance coverage for personal injury and property damage caused others, unless otherwise stated.

SOURCE: Sections 301(c), (d) and (e) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§3.1(c), (d), and (e).

322 DELIVERY OF CONTRACT TO BUYER

322.1 The original invoice shall be delivered to the purchaser at the time of the sale.

322.2 The duplicate copy of the retail installment contract shall be delivered to the purchaser at the time the purchaser signs the instrument of security.

SOURCE: Section 302 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.2.

323 ADVERTISING

323.1 No dealer shall in any advertisement for the sale of a motor vehicle use any word, term, or phrase which is deceptive, misleading, or which is bait advertising.

323.2 No dealer shall in any advertisement for the sale of a motor vehicle use any qualification or condition such as "upon approved credit" or any similar statement to justify an advertisement offering extremely low down payments or terms which can be granted only to a relatively few of the persons responding to, or expected to respond to, the advertisement.

323.3 As used in this section, the term "bait advertising" means an alluring but insincere offer to sell a motor vehicle which the advertiser in truth does not intend or want to sell, the purpose thereof being to switch purchasers from buying the advertised merchandise in order to sell something else, usually at a higher price or on a basis more advantageous to the advertiser.

323.4 The primary aim of bait advertising is to obtain leads as to persons interested in buying merchandise of the type so advertised.

- 323.5 Whenever the amount of the down payment is shown in any advertisement there shall be included, immediately adjacent to the amount of the down payment, a clear, conspicuous and non-deceptive statement of the cash sale price of the vehicle.
- 323.6 If either the amount or number of the installment payments are mentioned in any advertisement, then both the amount and number of those payments shall be mentioned and with equal prominence and clarity and immediately adjacent to each other.
- 323.7 In any printed advertisement of the price or terms of sale of any motor vehicle, any qualification or condition in connection with the price or terms shall be printed immediately adjacent to the price or terms in type of such size and style and in such words and manner as that it clearly, conspicuously and non-deceptively sets forth any such qualification or condition.
- 323.8 When any person licensed under this chapter advertises by means of radio or television the price or terms of sale of any motor vehicle, the advertisement shall be so phrased and delivered as to be in consonance with and consistent with the spirit and intent of this section.
- 323.9 For the purposes of this section, any qualification or condition shall be printed in twelve point (12 pt.) type or type one-half (1/2) the size of the type used for the price or terms which are qualified or conditioned, whichever is greater.
- 323.10 The provisions of this section shall not apply to any printed advertisement in which none of the type used exceeds twelve point (12 pt.) in size.

SOURCE: Sections 303(a) and (b) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§3.3(a) and 3.3(b).

324 DOWN PAYMENTS

- 324.1 No dealer shall demand or receive, either directly or indirectly, as a cash down payment any payment from any buyer in excess of the amount shown on the retail installment contract opposite the item captioned "CASH DOWN PAYMENT."
- 324.2 No promissory note accepted by a dealer as all or part of the "CASH DOWN PAYMENT" in connection with a retail installment transaction shall be secured by the motor vehicle purchased in the transaction. Any such promissory note shall be deemed to have been accepted as the equivalent of cash and shall be so recorded on the retail installment contract.

SOURCE: Sections 303(c) and (d) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§3.3(c) and 3.3(d).

325 INSURANCE: TYPES AND AMOUNTS

325.1 A buyer who executes a retail installment contract may be required to provide, at the buyer's own cost, insurance covering the motor vehicle for the protection of the holder.

325.2 The insurance required under §325.1 shall be limited to the following:

- (a) Collision insurance with a deductible of at least fifty dollars (\$50);
- (b) Towing and labor costs; and
- (c) Comprehensive or fire and theft, with or without combined additional coverage.

325.3 The charges for insurance allowed under this section shall not exceed the premiums chargeable for the insurance under applicable law.

325.4 No dealer shall execute any retail installment contract and no sales finance company shall purchase any such contract if the contract contains a charge for single interest insurance protecting the interest of the holder only, unless the policy or policies of the insurance contain a waiver of subrogation rendering it impossible for the insurance company to collect from the buyer any loss which it may pay to the holder.

325.5 With the agreement of the buyer, charges not exceeding the premiums chargeable under applicable law may be included in the retail installment contract for the cost of the following types of insurance:

- (a) Automobile bodily injury and property damage caused others;
- (b) Automobile medical payments; and
- (c) Credit life insurance.

325.6 No costs shall be included in the retail installment contract for any type of insurance not authorized by this section.

325.7 The amount of credit life insurance shall not, at any time, exceed the greater of the scheduled or actual unpaid **"TIME PRICE BALANCE."**

325.8 With respect to any insurance purchased by the holder which protects the interests of both the holder and buyer, the holder shall, within thirty (30) days after the execution of the retail installment contract, send or cause to be sent to the buyer a policy or policies or certificate or certificates of insurance, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and, if a policy, all the terms, exceptions, limitations, restrictions, and conditions of the contract or contracts of insurance; or if a certificate, a summary of that certificate.

- 325.9 The buyer shall have the privilege of purchasing insurance from an agent, broker, or company of the buyer's own selection; Provided, that inclusion in the retail installment contract of the cost of insurance purchased by the buyer from an agent, broker, or company selected by the buyer shall be at the option of the seller.
- 325.10 The buyer shall also have the privilege of utilizing existing insurance in lieu of insurance which the seller may, under this chapter, require the buyer to provide at the buyer's own cost.
- 325.11 All insurance referred to in this chapter, whether that insurance may be required by the seller or may be purchased voluntarily by the buyer, means insurance issued or written by a company licensed to do business in the District of Columbia.

SOURCE: Section 304 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.4.

326 CHANGE IN SOURCE OF INSURANCE OR CHANGE IN PREMIUM

- 326.1 In each retail installment contract in which a charge is included for insurance, if the holder is unable to purchase the insurance, or if the amount included for insurance is later determined to be more than the premium for the insurance actually purchased, it shall be the duty of the holder to so advise the purchaser in writing by certified or registered mail, within five (5) calendar days of the date the holder learns of the inability to purchase or the increased amount.
- 326.2 If the holder is unable to purchase the insurance or if the amount included in the contract for insurance exceeds the premium for the insurance actually purchased by the holder, then the holder shall refund or credit to the purchaser the amount included for insurance or the excess amount, as the case may be.
- 326.3 Except to the extent that the credit under §326.2 is applied toward payment for similar insurance, it shall be applied to the earliest installments of the contract maturing thereafter; or, at the option of the holder, the credit, plus interest thereon at the rate of eight percent (8%) per annum from the date on which the credit becomes available to the date it is applied to the indebtedness of the purchaser, may be applied to installments maturing subsequent to the earliest installments.
- 326.4 Notwithstanding the provisions of this section and the provisions of §337, whenever a seller includes in a retail installment contract any charge for insurance protecting the buyer against legal liability arising from bodily injury or property damage caused others, that seller shall not permit the buyer to take possession of the motor vehicle which is the subject of the retail installment contract unless and until the insurance has become effective under a standard contract of bodily injury and property damage insurance.

SOURCE: Section 305 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.5.

327 REFUND OF INSURANCE PREMIUMS

327.1 If insurance for which a charge is included in a retail installment contract is canceled or the premium adjusted, any refund of the insurance premium received by the holder shall be credited to installments of the instrument of security maturing thereafter.

327.2 Except to the extent that the refund is applied toward payment for similar insurance protecting the interests of the buyer and the holder, or either of them, it shall be applied to the earliest installment of the contract maturing thereafter; or at the option of the holder, the refund (plus interest thereon at the rate of eight percent (8%) per annum from the date on which the refund becomes available to the date it is applied to the indebtedness of the purchaser) may be applied to installments maturing subsequent to the earliest installments.

SOURCE: Section 306 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.6.

328 FINANCE CHARGES

328.1 Public Law 86-431, §2 (D.C. Code, §40-1101 *et seq.*), regulates and controls the maximum finance charges allowable in connection with the sale of motor vehicles. [See Also: D.C. Code §28-3601 *et seq.* (1981).

328.2 The finance charge authorized by the preceding subsection shall be computed on the principal balance payable for a motor vehicle from the date of the instrument or contract until the maturity of the final installment, notwithstanding that the balance thereof is required to be paid in installments.

328.3 For a period less or greater than twelve (12) months or for amounts less or greater than one hundred dollars (\$100), the amount of the maximum charge set forth in the foregoing schedule shall be decreased or increased proportionately.

SOURCE: Section 307 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.7.

329 SCHEDULE OF PAYMENTS

329.1 Except as otherwise provided in §330, all payments scheduled to be made under any instrument of security shall be in equal amounts and at regular intervals.

329.2 The regular intervals shall be monthly, semimonthly, biweekly, or weekly.

329.3 Each retail installment contract shall set forth, under the caption "**TERMS OF PAYMENT OF TIME PRICE BALANCE**," the number of installment payments, the amount of each installment, the interval between the installment payments, the date on which the first installment shall be payable and, if it shall be less than the other installments, the amount of the final installment, which must be paid by the buyer in order to discharge in full the "**TIME PRICE BALANCE**" as set forth in the retail installment contract.

- 329.4 If, pursuant to statute or this chapter, the installments (other than the final installment) are not equal in amount, or if the intervals between installments are not regular for all installments, then there shall be included under the caption **"TERMS OF PAYMENT OF TIME PRICE BALANCE"** a schedule or statement showing the amount of each installment and the due date of each installment.
- 329.5 No person shall include in any promissory note, payment of which is secured by a retail installment contract, any provision, term, or condition of payment which varies materially from any provision, term, or condition of payment set forth in that retail installment contract.
- 329.6 If any promissory note contains any provision, term, or condition of payment which varies in any material particular from the provisions, terms, or conditions of payment set forth in the retail installment contract, that provision, term, or condition of payment of the promissory note shall be deemed to be the provision, term, or condition of payment set forth in the retail installment contract.

SOURCE: Section 307 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.8.

330 IRREGULAR OR UNEQUAL INSTALLMENTS

- 330.1 Notwithstanding the provisions of §329, the interval for the first installment payment may be longer than the other intervals but shall not exceed ninety (90) days, except as may be permitted by §330.4.
- 330.2 If the governmental charges are not paid directly by the purchaser, any instrument of security may provide that there be one (1) or more special payments in addition to and payable in advance of the regular equal payments; Provided, that the total amount of that special payment or payments shall not exceed the governmental charges.
- 330.3 The final installment payment may be less in amount than the preceding installment payments.
- 330.4 If a buyer's livelihood is dependent upon seasonal or intermittent income, one (1) or more of the regular installment payments in the schedule of payments included in any instrument of security may be reduced or postponed.
- 330.5 Instruments of security and refinancing contracts may provide that the holder shall be entitled to collect on each installment in default for a period of more than ten (10) days one of the following:
- (a) A delinquency and collection charge in an amount not exceeding five percent (5%) of each installment or five dollars (\$5), whichever is less; or
 - (b) Interest on each installment at a rate not in excess of eight percent (8%) per annum.

330.6 Instruments of security or refinancing contracts may provide for the following in instances of delinquency:

- (a) Payment of a reasonable attorney's fee (not exceeding fifteen percent (15%) of the unpaid balance) to an attorney who is not a salaried employee of the holder of the instrument of security or refinancing contract;
- (b) Payment of court costs; and
- (c) Subject to the provisions of §§339 and 340, payment of actual and reasonable out-of-pocket expenses incurred by the holder as a result of the delinquency.

SOURCE: Section 309 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.9; as amended by §2 of Regulations Governing the Businesses of Buying, Selling and Financing in the District of Columbia, D.C. Law 6-179, 33 DCR 7658 (December 12, 1986).

331 TRANSFER OF EQUITY

331.1 An instrument of security may prohibit a buyer under a retail installment contract from transferring the buyer's equity in the motor vehicle to another person without the written consent of the holder. Upon giving this consent, the holder shall be entitled to a transfer fee not exceeding ten percent (10%) of the remaining unpaid balance or twenty-five dollars (\$25), whichever is less.

331.2 Except as provided in the instrument of security pursuant to §331.1, a buyer may at any time transfer to another person the buyer's equity in a motor vehicle to which an instrument of security relates without obtaining the consent of the holder of the instrument and without prepayment of the instrument or the payment of any fee to the holder.

SOURCE: Section 312 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.12.

332 SIGNING OF DOCUMENTS

332.1 No person shall execute on behalf of any dealer, and no dealer shall permit any person to execute for or on behalf of that dealer, any invoice or retail installment contract, unless prior to that signing the dealer has in writing designated that person as the dealer's authorized representative for that purpose and has filed the designation with the Director.

332.2 No dealer shall cause or permit any instrument of security covering the sale or assignment or a motor vehicle by that dealer to be signed by a purchaser in blank.

332.3 No dealer shall cause or permit any instrument of security covering the sale or assignment or a motor vehicle by that dealer to be signed by a purchaser prior to the time all information required by this chapter has been completed in the body of the instrument of security by the dealer and certified by the dealer to be correct.

- 332.4 No dealer shall cause or permit any instrument of security covering the sale or assignment or a motor vehicle by that dealer to be signed by a purchaser before the dealer has exhibited to the purchaser the completed instrument of security and given the purchaser reasonable opportunity to examine the instrument of security and to inform himself or herself of the contents of that document.

SOURCE: Sections 313 and 314 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§3.13 and 3.14.

333 HANDLING AND DELIVERY CHARGES

- 333.1 No dealer shall demand or receive any payment for conditioning, preparation, handling, or delivery charges respecting a used or second-hand motor vehicle sold under a retail installment contract.
- 333.2 Nothing in this section shall prohibit a dealer from including any charge for conditioning, preparation, handling, or delivery in the "CASH SALE PRICE."

SOURCE: Section 316 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.16.

334 WARRANTIES AND GUARANTEES

- 334.1 No dealer shall demand or receive any payment for a warranty or guarantee respecting a motor vehicle sold under a retail installment contract.
- 334.2 Nothing in this section shall prohibit a dealer from including a charge for a warranty or guarantee in the "CASH SALE PRICE."
- 334.3 No warranty or guarantee by the dealer shall be made in any other form than in writing signed by the dealer.
- 334.4 The dealer shall deliver a written warranty or guarantee to the buyer simultaneously with the delivery to the buyer of the buyer's copy of the retail installment contract.

SOURCE: Section 315 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960.

335 STATEMENTS OF ACCOUNT AND RECEIPTS

- 335.1 Upon written request of a buyer, the holder of an instrument of security or refinancing contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under the instrument or contract.
- 335.2 A holder shall not be required to respond to a request under §335.1 for a statement of account from the same buyer more frequently than once in any three (3) month period.

- 335.3 A buyer shall be given a written receipt for each payment made in cash.

SOURCE: Section 317 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.17.

336 UNAUTHORIZED CHARGES AND CONTRACT PROVISIONS

- 336.1 Except as provided in this chapter, no dealer or holder shall exact from any buyer anything of value for any service or function in connection with the sale or financing of a motor vehicle or for the execution or recording of a release of a lien on a motor vehicle.
- 336.2 No person shall include in any retail installment contract any provision waiving or purporting to waive any provision of this chapter.
- 336.3 Any provision included in any retail installment contract which waives or purports to waive any provision of this chapter shall be void and of no effect.
- 336.4 No person shall include in any retail installment contract any provision which permits the holder arbitrarily or unreasonably to accelerate the installment payments required by the contract; Provided, that this subsection shall not be construed as prohibiting the purchaser from anticipating one or more installment payments.

SOURCE: Sections 310 and 318 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §3.18.

337 PREPAYMENT AND REFUNDS

- 337.1 Notwithstanding the provisions of any instrument of security or refinancing contract to the contrary, any buyer may, at any time before maturity, prepay the balance due under that instrument or contract in full in cash or, with the approval of the holder, by extension, renewal, or otherwise.
- 337.2 If any buyer prepays the balance due under an instrument of security or a refinancing contract, as provided in this section, the buyer shall be entitled to receive a refund of finance charges computed according to the actuarial method, as described by the federal Truth in Lending Act (82 Stat. 149; 15 U.S.C. §1606(a)(1)(A); 5-29-68) and the regulations issued under that Act.
- 337.3 If any charge is included in a retail installment contract for credit life insurance, and that retail installment contract is prepaid in full prior to maturity, the holder shall refund or cause to be refunded to the buyer a portion of the credit life insurance charge which shall be not less than an amount computed under the formula commonly referred to as the "actuarial rebate formula" as soon as the buyer does either of the following:
- (a) Surrenders the policy or other evidence of insurance to the holder, or
 - (b) Furnishes a lost-policy release to the holder.

- 337.4 No refund shall be required in any case under §337.3 which, when computed by the actuarial rebate formula, would be less than one dollar (\$1).

SOURCE: Sections 401 and 402 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§4.1, 4.2, and 4.4; as amended by §4(b) and (i) of the District of Columbia Automotive Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 675 (February 12, 1982).

338 REFINANCING RETAIL INSTALLMENT CONTRACTS

- 338.1 The holder of an instrument of security or of a refinancing contract, upon request by the buyer, may agree to an amendment to that contract or instrument to extend the scheduled due date of all or any part of any installment or installments or to restate or reschedule the unpaid balance due under the instrument or contract.
- 338.2 The holder may collect for that refinanced instrument or contract a refinance charge not to exceed an amount computed as provided in §338.3 through §338.5; or, in the alternative, if all or some unpaid installments are deferred for not more than three (3) months, the holder may at the holder's election charge and collect on the amount deferred for the period deferred an amount computed at a rate which does not exceed the maximum which governed the original contract; Provided, that a minimum extension charge of one dollar (\$1) shall be permitted.
- 338.3 A refund credit (such as a credit for prepayment under §337.2), shall be deducted from the sum of the following:
- (a) The unpaid balance as of the refinancing date;
 - (b) The cost of any insurance incidental to the refinancing; and
 - (c) Any accrued delinquency and collection charges.
- 338.4 The resulting amount under §338.3 shall constitute a principal balance. The refinance charge shall be computed for the term of the refinancing contract at a rate of finance charge which does not exceed the maximum which governed the original contract.
- 338.5 The twenty-five dollar (\$25) minimum finance charge referred to in §2(a) of Public Law 86-431 (74 Stat. 69) shall not apply in calculating refinance charges.

SOURCE: Section 403 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §4.5.

339 SALE OR TRANSFER OF VEHICLE OR INSTRUMENT OF SECURITY

- 339.1 The assignment by the holder of an instrument of security to a dealer who is liable to the holder under a guaranty, an endorsement, or a repurchase agreement relating to that instrument of security shall not constitute the sale or disposition of a motor vehicle within the meaning of §340 through §349 of this chapter, inclusive.

- 339.2 The transfer of a motor vehicle securing that instrument of security or both the assignment (under §339.1) and transfer (under this sub-section) to a dealer who is liable to the holder under a guaranty, an endorsement, or a repurchase agreement relating to that instrument of security shall not constitute the sale or disposition of a motor vehicle within the meaning of §340 through §349 of this chapter, inclusive.

SOURCE: Section 506 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §5.6.

340 REPOSSESSION

- 340.1 When a buyer is in default in any of the following, the holder may repossess the motor vehicle:

- (a) The payment of any sum due under an instrument of security;
- (b) The performance of any other condition which the instrument of security lawfully requires the buyer to perform in order to obtain title to the motor vehicle; or
- (c) The performance of any promise which the instrument of security expressly makes a ground for repossession of the motor vehicle.

- 340.2 Unless the motor vehicle can be repossessed without a breach of the peace, it shall be repossessed by legal process.

- 340.3 Nothing in this section shall be construed to authorize a violation of the criminal law.

- 340.4 Within one (1) hour after repossession of a motor vehicle, the individual who performed the repossession shall notify the Metropolitan Police Department of the repossession and shall provide the following data:

- (a) The name and address of the registered owner;
- (b) The name and address of the reposessor;
- (c) The name and address of the holder;
- (d) The tag number and description of the vehicle;
- (e) The location from which the vehicle was repossessed;
- (f) Where the vehicle is located;
- (g) The date and time of repossession; and
- (h) Other information required by the Metropolitan Police Department.

- 340.5 A deficiency does not arise unless the holder has complied with all of the requirements of §§340 through 349, including the mandatory and discretionary notice requirements set forth in §341.
- 340.6 Any failure to abide by the requirements of §§340 through 349 constitutes an unfair trade practice, the remedies for which include, but are not limited to, those contained in Chapter 39 of Title 28 of the D.C. Code.
- 340.7 The remedies set forth in §340.6 are in addition to any other remedy provided by the laws of the District of Columbia, including, but not limited to, Chapter 38 of Title 28 of the D.C. Code and the Uniform Commercial Code.

SOURCE: Sections 501(a) and (b) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§5.1 and 5.7; as amended by §4(j) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 675 (February 12, 1982).

341. HOLDER'S DUTIES ON REPOSSESSION

- 341.1 At least ten (10) days before any motor vehicle is repossessed, the holder may deliver to the buyer personally, or send to the buyer's last known address by registered or certified mail, a written notice of the holder's intention to repossess the vehicle.
- 341.2 The notice shall explain the following:
- (a) The default;
 - (b) The actions necessary to cure the default;
 - (c) Any period at the end of which the vehicle will be repossessed; and
 - (d) The rights of the buyer if the vehicle is repossessed.
- 341.3 If the default consists solely of the buyer's failure to make one (1) or more installment payments due under the instrument of security, and the default is not more than fifteen (15) days past due, then the holder must deliver to the buyer the notice of intended repossession, as provided in §§341.1 and 341.2.
- 341.4 Within five (5) days after a motor vehicle has been repossessed, the holder shall deliver to the buyer personally, or send to the buyer at the buyer's last known address, by registered or certified mail, a written notice stating the following:
- (a) The buyer's right to redeem the vehicle;
 - (b) The amount due and payable;
 - (c) The buyer's rights with respect to resale of the vehicle;
 - (d) The buyer's liability for a deficiency upon resale;

- (e) The exact address where the motor vehicle is stored; and
- (f) Where any payment is to be made or notice delivered.

341.5 For fifteen (15) days after the notice required by §341.4 has been delivered personally or mailed, the holder shall retain or store the repossessed motor vehicle in the District or the state and county in which the consumer resides or the state and county where it was located and repossessed. During this period the buyer may redeem the motor vehicle and become entitled to take possession of it.

341.6 Notwithstanding any other provisions of this chapter, the redemption period provided for in this section may be waived by written agreement made and entered into by and between the buyer and the holder after the motor vehicle has been repossessed; Provided, that the agreement must include a provision releasing and discharging the buyer from any claim by the holder for deficiency and discharging the holder from any claim by the buyer for overage.

SOURCE: Sections 502(a) and (c) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§5.2(a) and 5.2(b); as amended by §§4(k)(1), (2) and (3) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 676 (February 12, 1982).

342 BUYER'S RIGHT TO REDEEM THE VEHICLE

342.1 To redeem the motor vehicle the buyer shall do the following:

- (a) Pay or tender the amount due under the agreement at the time of redemption, without giving effect to any contractual provision which allows acceleration of any installment otherwise payable after that time;
- (b) Tender performance of any other contractual obligation for the breach of which the goods were repossessed; and
- (c) If the notice provided for in §§341.1 and 341.2 was given, pay the actual and reasonable expenses of retaking and storing the goods.

342.2 Charges under §342.1(c) shall not exceed three dollars (\$3) per day, and the total ordinary expenses of retaking shall not exceed one hundred dollars (\$100).

SOURCE: Section 502(d) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §5.3(d); as added by §4(k)(4) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 678 (February 12, 1982).

343 REPOSSESSION RIGHTS OF HOLDER AND BUYER

343.1 The provisions of §341 shall apply to any motor vehicle that is the subject of pending legal process to obtain such possession, until the date of issuance of a court order granting the holder possession of the vehicle pursuant to Chapter 37 of Title 16 of the D.C. Code.

- 343.2 The provisions of §341.1 through §341.3 do not apply if the buyer was guilty of fraudulent conduct; or intentionally and wrongfully concealed, removed, damaged, or destroyed the goods, or attempted to do so; and the goods were repossessed because of that improper conduct by the buyer. The improper conduct alleged by the holder which serves as the basis of this subsection must be specified in the written notice required under §341.4.

SOURCE: Sections 502(e) and (f) of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §5.2(e) and (f); as added by §4(k)(4) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 679 (February 12, 1982).

344 SALE OF REPOSSESSED MOTOR VEHICLE

- 344.1 If the buyer has paid less than fifty percent (50%) of the cash sale price of the motor vehicle, the holder may sell the motor vehicle at public or *bona fide* private sale or at public auction, unless the buyer within the fifteen (15) day redemption period prescribed in §341 requests in writing a public sale or auction and deposits with the seller the sum of fifteen dollars (\$15) to cover the cost of the sale or auction.
- 344.2 If the buyer has paid at least fifty percent (50%) of the cash sale price of the motor vehicle, it shall be the duty of the holder to sell the motor vehicle at public sale or at public auction.
- 344.3 If the holder is not satisfied with the highest bid received at the public sale or public auction held under §344.2, the holder may reject all bids and sell the vehicle at private sale for not less than the highest bid received at the public sale or public auction.
- 344.4 The private sale shall be subject to the provisions of §345.
- 344.5 The holder shall give at least ten (10) days written notice to the buyer prior to the date of any public sale or auction of the time and place of the public sale or auction.
- 344.6 The holder shall give at least ten (10) days written notice to the buyer of a private sale, after which the private sale may be held.
- 344.7 The notice shall be delivered personally or sent by registered or certified mail.
- 344.8 Any notice required by this section may be given prior to the expiration of the redemption period prescribed in §341.5.

SOURCE: Section 503 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §5.3.

345 PROCEEDS OF SALE OF REPOSSESSED MOTOR VEHICLE

- 345.1 In the case of a private sale of a repossessed motor vehicle, the proceeds of the sale shall be deemed to be the larger of either the amount actually received as the

consideration for that sale or the fair market value of the motor vehicle in its then condition as of the date of the private sale.

345.2 The proceeds of any such sale shall be applied:

- (a) To the actual and reasonable cost of the sale;
- (b) To the actual and reasonable cost of retaking and charges for putting the motor vehicle in reasonable saleable condition, and for storage: Provided, That storage charges shall not exceed three dollars (\$3) per day and may begin no earlier than the day after the repossession;
- (c) To the unpaid balance owing under the contract at the time the motor vehicle was repossessed; and
- (d) Any balance remaining shall be paid to the buyer, and if a deficiency arises the buyer shall be liable for that deficiency if the contract provides for the deficiency. A written statement showing the disposition of the proceeds and any deposit made shall be furnished to the buyer by the holder.

SOURCE: Section 504 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§5.4 and 5.5; as amended by §4(l) of District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 679 (February 12, 1982).

346 CONSUMER REMEDIES

346.1 For purposes of this section, a deficiency does not arise unless the holder has complied with all requirements of §§340 through 345 of this chapter, including the mandatory and discretionary notice requirements set forth in §341.

346.2 Any failure to abide by the requirements of this chapter shall constitute an unfair trade practice, the remedies for which include, but are not limited to, those contained in Chapter 29 of Title 28 of the D.C. Code.

346.3 Remedies cited in §§346.1 and 346.2 shall be in addition to any other remedy provided by the laws of the District of Columbia, including but not limited to Chapter 38 of Title 28 of the D.C. Code and the Uniform Commercial Code.

SOURCE: Section 507 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia; as added by §4m of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 680 (February 12, 1982).

347 - 349 [RESERVED]

350 SAMPLE CONTRACT FORMS

- 350.1 No dealer shall use any invoice or retail installment contract unless a sample form of that invoice or contract has first been approved by the Director as being in accordance with this chapter.
- 350.2 Reproductions of the invoice and the retail installment contract in the form approved by the Director shall be assembled in sets in such manner as to provide an original and not less than one (1) copy of the invoice and two (2) copies of the retail installment contract.
- 350.3 The original and all copies of the original shall bear the same number.

SOURCE: Section 601 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §6.1.

351 IDENTIFICATION OF SALESPERSONS

- 351.1 Each salesperson, while actually engaged in selling or buying or attempting to sell or buy motor vehicles for or on behalf of any dealer by whom he or she is employed, shall carry on his or her person the identification card issued to him or her pursuant to this chapter.
- 351.2 Upon request of a purchaser or seller or a prospective purchaser or seller, a salesperson shall exhibit the identification card and furnish to the purchaser or seller or prospective purchaser or seller a business card or other written or printed matter containing his or her full name and the number of the current salesperson's license issued to him or her.

SOURCE: Section 602 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §6.2.

352 SALESPERSONS' ACTIONS ON BEHALF OF DEALERS

- 352.1 No licensed salesperson shall sell or buy or offer to sell or buy motor vehicles for any employer except the licensed dealer or dealers by whom he or she is employed and for whom he or she is registered in the Department.
- 352.2 Any violation of §352.1 shall be cause for suspension or revocation or the salesperson's license.
- 352.3 No salesperson may sell or buy or offer to sell or buy a motor vehicle for or on behalf of a dealer by whom that salesperson is employed during such time as the license of the dealer is suspended or revoked, regardless of the validity of the license of that salesperson.

SOURCE: Sections 603 and 604 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §§6.3 and 6.4.

353 PENALTIES

- 353.1 In accordance with D.C. Code §40-1107 (1990 Repl. Vol.), any person who violates any provision of this chapter shall be guilty of a misdemeanor and punished by a fine not exceeding five hundred dollars (\$500) or by imprisonment for not more than six (6) months, or both.

SOURCE: Section 701 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960, 5AA DCRR §7.1.

399 DEFINITIONS

- 399.1 For purposes of this chapter and in addition to the definitions set forth in D.C. Code §40-1101 (1990 Repl. Vol.), the following terms and phrases shall have the meanings ascribed:

Amount Credited for any Trade-in - the figure representing the value agreed upon by the dealer and the purchaser for any motor vehicle or other personal property tendered by the purchaser, and accepted by the dealer, as part payment of the purchase price of any motor vehicle.

Assign - any negotiation, sale, conveyance, or transfer in any manner or by any form of an instrument of security.

Automobile reposessor - any person, including a dealer, seller, sales finance company, or person acting under contract as or on behalf of a dealer, seller, sales finance company, or automobile repossession business, who takes possession of a motor vehicle pursuant to the provisions of this chapter.

Cash Sale Price of Vehicle and Equipment - the total cash price of the motor vehicle, accessories and equipment sold to the purchaser before deduction of amount credited for any trade-in, and is the amount for which the dealer will immediately transfer and assign to the purchaser title to the motor vehicle, accessories and equipment free and clear of any lien or encumbrance.

Cash Down Payment - any cash, other than installments of the time price balance, received by the dealer from the purchaser as part payment for a motor vehicle, and as payment of any governmental charges required to be collected by the dealer.

Cost of Insurance and Summary of Insurance Coverage - a statement as to each type of coverage; the amount, term and total premium of the insurance which is included in the total amount to be paid by the purchaser; the extent to which each such type of insurance will protect the interest of the purchaser; and the name of the company or broker with whom the insurance has been placed or to whom application for the insurance will be made.

Description of the motor vehicle sold - the manufacturer's trade name, model, year and serial number of manufacturer's identification number of the vehicle sold.

Director - the Director of the Department of Consumer and Regulatory Affairs, or his or her designated agent.

Governmental charges - include, in addition to those charges enumerated in the Act of April 22, 1960 (Public Law 86-431), notary fees, and any amount paid by the dealer for messenger service, not in excess of two dollars and fifty cents (\$2.50), for obtaining and delivering certificate of title and identification tags.

Holder - any person legally or beneficially entitled to the proceeds of the instrument of security.

Invoice - an itemized statement of the sale of a motor vehicle. The word "invoice" also includes a bill of sale.

Public Sale - a sale where not less than five (5) days notice has been given by a holder to the public specifying where the motor vehicle to be sold is located; at what times, within that period, it may be inspected; and by what time all bids must be received by the holder in order to be considered in the disposal of the vehicle. The notice provided for in this definition shall be an advertisement in a newspaper of general circulation in the area where the property is to be sold. Other motor vehicles may be included in any such newspaper advertisement.

Purchaser or Buyer or Retail Buyer - a person to whom a dealer has sold, traded, exchanged or in any other manner conveyed or transferred legal or equitable title to a motor vehicle.

Sale - sale, trade, exchange, barter, and any other transaction for a consideration which results in the transfer of legal or equitable title to a motor vehicle by a dealer to a purchaser.

Salesperson - any individual (including without limitation any officer, director, partner, or member of a dealer) who either expressly or impliedly represents or holds himself or herself out to be employed, engaged, appointed, authorized or permitted by any dealer to sell or buy or offer to sell or buy any motor vehicle or any interest in a motor vehicle for or on behalf of the dealer, but does not include any individual engaged in the business of buying motor vehicles from licensed dealers for disposition or sale outside the District of Columbia.

The term "salesperson" also includes any person who, for a consideration and with the express or implied consent of a dealer, arranges for the sale of a motor vehicle or any interest in a motor vehicle either by the dealer, or on or from the place of business of the dealer.

The acceptance by a dealer of any transaction resulting from such an arrangement shall, *prima facie*, constitute that person a salesperson for that dealer, within the meaning of this chapter.

Sales Finance Company - a person engaged in the District of Columbia in the business of purchasing instruments of security from one or more dealers.

Terms of Payment of Time Price Balance - the number of installment payments to be made by the purchaser, the amount of each installment, and the due date or payment period.

Time Price Balance - the total amount remaining to be paid by the purchaser to acquire complete ownership of the vehicle free and clear of all liens or encumbrances.

Total Cash Price Balance - the balance of the cash sale price due, after deducting the cash down payment and the amount credited for trade-in, for which the dealer will transfer and assign to the purchaser title to the motor vehicle free and clear of any lien or encumbrance.

SOURCE: Section 101 of Regulations Governing the Business of Buying, Selling and Financing of Motor Vehicles in the District of Columbia, Commissioners' Order 60-2219, effective October 20, 1960; as amended by Commissioners' Order 63-1601, 10 DCR 18 (July 22, 1963), 5AA DCRR §1.1; as further amended by §4(a) of the District of Columbia Automobile Financing and Repossession Act of 1981, D.C. Law 4-90, 29 DCR 666, 668 (February 12, 1982).